

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHEILA LYONS, DVM and
HOMECOMING FARMS INC.,

Plaintiffs,

v.

THE AMERICAN COLLEGE OF
VETERINARY SPORTS MEDICINE
AND REHABILITATION, INC. and
THE AMERICAN VETERINARY
MEDICAL ASSOCIATION, INC.,

Defendants.

Civil Action No. 1:11-cv-12192

DECLARATION OF DAVID A. KLUFT, ESQ.
IN OPPOSITION TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT

I, David A. Kluff, declare and state as follows:

1. I am a partner at Foley Hoag LLP. I represent the American College of Veterinary Sports Medicine and Rehabilitation (the "College") in the above-captioned matter. I submit this declaration in opposition to the plaintiffs' Motion for Summary Judgment.
2. Attached as **Exhibit A** are true and correct excerpts of the program from the International Symposium for Veterinary Sports Medicine and Rehabilitation in Corvallis, Oregon in 1999.
3. Attached as **Exhibit B** are true and correct excerpts from the Deposition of Dr. Elisabeth Sabin, the 30(b)(6) witness for the American Veterinary Medical Association ("AVMA").
4. Attached as **Exhibit C** are true and correct excerpts from the Deposition of Dr. Robert Gillette.

5. Attached as **Exhibit D** is the supplemental affidavit of Dr. Robert Gillette in opposition to summary judgment.
6. Attached as **Exhibit E** is a document I downloaded from the United States Patent and Trademark Office website, relating to application serial number 85486999. It indicates that the application is still pending because of the College's opposition. The mark was not registered on the Principal Register.
7. Attached as **Exhibit F** are documents pertaining to the corporate status of Homecoming Farm, which I obtained from the New Hampshire Secretary of State.
8. Attached as **Exhibit G** is a chart I created setting forth the items from the College's petition that Dr. Lyons claims were copied verbatim from her work, i.e. those items highlighted in green. This chart compares the College's petition with Lyons' copyrighted work, and also with the 2003 ABVS Policies and Procedures Manual.
9. Attached as **Exhibit H** is a grant application by Homecoming Farm, a document produced by Dr. Lyons in this action and introduced at her deposition.
10. Attached as **Exhibit I** is a document produced by the College as ACVSMR000653.
11. Attached as **Exhibit J** is a document produced by the College as ACVSMR008246-8249.
12. Attached as **Exhibit K** are documents produced by Dr. Lyons pertaining to her registration of the acvsmr.org and acvsmr.com domains.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

/S/ David A. Kluft
David A. Kluft

Dated: March 22, 2013

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the above date.

/s/ David A. Kluft